

12-15 (49)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICKY LEAKE,

Petitioner,

v.

JEFFREY N. DILLMAN,

Respondents.

CIVIL ACTION

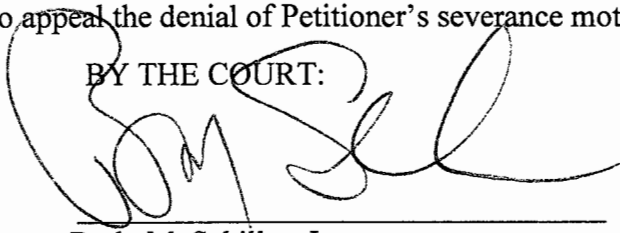
No. 10-7406

ORDER

AND NOW, this 8 day of Oct, 2013, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, the Response, Supplemental Response and Reply thereto, and the Amended Counseled Petition for Writ of Habeas Corpus and the Response thereto, and after review of the Report and Recommendation of United States Magistrate Judge Henry S. Perkin, ^{and objections thereto} IT IS HEREBY ORDERED that:

1. the Report and Recommendation is APPROVED and ADOPTED;
2. the Petition for Writ of Habeas Corpus is CONDITIONALLY GRANTED; that Petitioner is discharged from all custody resulting from his convictions and sentences in the Philadelphia Court of Common Pleas in Criminal No. CP-51-CR-1007811-2003 UNLESS, within 180 days from the date of the final determination of this matter, the Commonwealth of Pennsylvania retries the charges against Petitioner; and
3. a certificate of appealability is GRANTED as to the issue of ineffective assistance of counsel arising from the failure to object to the introduction of codefendant statements and the failure to appeal the denial of Petitioner's severance motion.

BY THE COURT:


Berle M. Schiller, J.